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POSTAL SERVICE
OFFICE OF THE PRESIDENT

PRESIDING OFFICER'S
RULING NO. C2001-3/21

UNITED STATES OF AMERICA
POSTAL RATE COMMISSION
WASHINGTON, DC 20268-0001

Complaint on First-Class Mail Standards

Docket No. C2001-3

PRESIDING OFFICER'S RULING ON
POPKIN MOTION TO COMPEL RESPONSES TO DBP/USPS-118-123 AND ON
RELATED POSTAL SERVICE MOTION FOR LATE ACCEPTANCE OF OBJECTIONS

(Issued April 3, 2002)

This ruling addresses Mr. Popkin's motion to compel responses from the Postal Service to six multi-part interrogatories (Nos. 118-123) and related pleadings.¹ It also grants the Postal Service's motion for late acceptance of its objections to these interrogatories.

The interrogatories in issue request considerable detail about specific mail dispatches, focusing primarily on Midland, Texas and 16 other Outlier facilities. The Service addresses each interrogatory separately, but its objections are mainly based on contentions that the questions are cumulative, unduly burdensome, or not related to the service standard changes at issue here. I generally agree with the Service's assessment. While asking for details of postal operations is standard practice in discovery, those requested here threaten to obscure the main focus of this case and distract attention from core concerns. This is primarily because, as the Service points out, the questions in issue concern mail dispatch and related policies at Outlier facilities where the Service has postponed implementing the service standard changes that underlie this complaint. Where, as here, undue burden appears to be associated with

¹ Mr. Popkin characterizes these interrogatories as follow-up to DBP/USPS-89, a twelve-part interrogatory. Question 89, in turn, followed up on DBP/USPS-37 and USPS-LR-C2001-3/3. Pleadings include Objection of the United States Postal Service to Interrogatories DBP/USPS-118-123, December 14, 2001 (Objection), Motion to Compel Response to Interrogatories DBP/USPS-118-123 That Have Been Objected To, December 21, 2001 (Motion to Compel) and Opposition of the United States Postal Service to Motion of David Popkin to Compel Responses to DBP/USPS-118-123, December 28, 2001 (Opposition).

providing much of the requested detail, I will not require the Service to provide responses.

Mr. Popkin has noted that the Service has not provided an estimate of the burden involved in answering these questions. Motion to Compel at 2. Under the circumstances, where extensive details from the field are requested and, at least for some questions, the potential span of years involved could be considerable, I will waive production of a formal estimate of the time and expense expected to be involved in responding to these questions.

Part I. General Positions

Postal Service. The Service generally objects to answering these interrogatories on grounds that the burden of tracking down much of the requested information far outweighs its probative value. Postal Service Objection at 2. It also asserts that some of the interrogatories relate to the 17 Outlier facilities for which outgoing service standard changes conforming to those at issue here have been held in abeyance, so no outgoing mail service standard changes for these facilities were implemented as part of the Phase 2 finalization in 2000 and 2001. The Service contends it has explained the reasons for this postponement; acknowledged some associated deviations in the now-standard procedure (such as split service standards within some ADC areas); and has explained that any outgoing mail service standard changes have been indefinitely delayed, pending the resolution of this proceeding. *Ibid.* It says it has not objected to questions asking generally about differences between standard operations and those which may result from the delayed implementation in the Outlier service areas, but asserts that there is a limit beyond which it should not be required to go. *Id.* at 2-3. The Service's Opposition reiterates the points made in the initial objection. It also specifically notes that although it had anticipated reviewing the service standards at Outlier facilities in September 2001 (with some adjustments thereafter), it made a decision, shortly after Docket No. C2001-3 was filed, to postpone the anticipated review

until resolution of this complaint. As a result, the Service says that but for this self-imposed delay, the Outlier status of the 17 facilities addressed in these interrogatories would have disappeared by now. Postal Service Opposition at 2.

Mr. Popkin acknowledges that these interrogatories explore service inconsistencies in the 17 Outlier areas. However, he asserts that inconsistent service is indicative of service that does not meet conditions mandated by the Postal Reorganization Act and the Domestic Mail Classification Schedule. Therefore, he claims it is relevant to try to obtain the details of these inconsistencies so that the Commission will be aware of them in reaching its decision. Motion to Compel at 1.

Part II. Specific Interrogatories

Question 118. This is a three-part question; only subpart (c) is in issue. This subpart asks for a list (similar to that requested and provided in subpart (a) for Midland, Texas) showing the facilities to which each of 16 Outlier facilities dispatch their 2- and 3-day mail.

The Service objects to providing these detailed mailflows on grounds that the facilities for which they are sought are those where 2-day and 3-day outgoing service standard changes are on hold. It notes that the current service standards for mail originating from these facilities have been provided, and further argues that no material issue in this case will be resolved on the basis of the level of detail already provided in the response to question 89 or sought here. Postal Service Objection at 3. In addition, the Service says the details provided concerning Midland, Texas dispatches are sufficient to any argument Mr. Popkin may care to make regarding violations of the Postal Reorganization Act. Postal Service Opposition at 3.

In support of his motion, Mr. Popkin says it appears to him that Midland dispatches mail to other facilities directly, rather than through its parent P&DC. He says he is attempting to determine the extent to which that type of arrangement exists at other Outlier facilities. Motion to Compel at 1.

Ruling. Resolution of the core issues in this case, as the Service asserts, does not turn on the details sought here. As general information concerning the topic Mr. Popkin is exploring already has been provided on this record, I will not require the Service to respond to this question. The Motion to Compel is not granted.

Question 119. This seven-part question seeks numerous details about mail dispatch between Midland, Texas and the North Houston ADC. Subparts (a) and (b) seek details under both the 2-day delivery standard and under the 3-day delivery standard. Subpart (c) asks for the rationale supporting the original division of the North Houston ADC into both 2- and 3-day standards ("the split ADC phenomenon"). Subpart (d) asks whether 2- and 3-day service standard mail is transported to the same facility within the North Houston ADC area before it is transported to separate facilities. Subpart (e) asks the Service to identify portions of the trip where mail destined for the 2-day area is transported with mail destined for the 3-day area. Subpart (f) asks for confirmation that all non-overnight, non-Outlier facilities that dispatch 2- and 3-day mail to the North Houston ADC have either 2-day or 3-day standards to the entire ADC area. Subpart (g) asks whether the mail in question merges with mail dispatched from any other non-overnight, non-Outlier mail facility to the North Houston ADC.

For the same reasons noted in its objection to question 118(c), the Service objects to providing a detailed description of how mail is dispatched between the various facilities identified in this interrogatory or why the arrangements were originally set up. It observes: "Within the vastly complex surface transportation network, there are all sorts of combinations employed to get mail between various points." Postal Service Objection at 3. Mr. Popkin defends his interest in a response by saying that he is attempting to determine why mail from Midland, Texas to the North Houston ADC can be commingled, and yet have 2-day and 3-day service to parts of the same ADC. Motion to Compel at 2.

Ruling. The focus of this interrogatory is not on the changes in transportation at issue in this proceeding, but on the Outliers where the Service has postponed changes. I agree with the Service that requiring it to provide the details requested in this

interrogatory will not advance this record. Moreover, the reason why split service standards exist has been thoroughly explained. See Postal Service Opposition at 3-4. The Motion to Compel is not granted.

Question 120. This two-part question (similar to question 119) asks, in subpart (a), for a list of instances where the service standards from an Outlier facility are divided (or “split”) between 2-days and 3-days within the same ADC. Subpart (b) asks, for each instance identified in response to subpart (a), for the rationale for “the split ADC phenomenon.”

The Service objects to both subparts, asserting that the “split ADC” phenomenon has been confirmed and explained. In particular, it notes that a specific origin-destination pair service standard may have been established 10 or more years ago. It reiterates that resolution of issues in this proceeding will not be advanced by being able to list every such pair or by the knowledge of whether each such pair has a unique historical background. Postal Service Objection at 4. The Service also says this question pursues immaterial facts that are not relevant or necessary to a resolution of the issues in this proceeding. Postal Service Opposition at 4.

Mr. Popkin defends his request for the information requested here on grounds that he is attempting to show that condition noted in question 119 exists in other areas of the country. Motion to Compel at 2.

Ruling. As indicated, I find that the existence of the “split ADC phenomenon” has been confirmed and explained adequately on this record; therefore, the Motion to Compel is deemed moot with respect to subpart (a). No valid purpose would be served by requiring the Service to research reasons why the split approach developed in various situations. Moreover, the burden of undertaking this research, on its face, would far outweigh any possible relevance. Accordingly, the Motion to Compel is not granted with respect to subpart (b).

Questions 121 (five subparts) and 122. Subpart (a) of question 121 asks — in terms of each of the ADCs (or part thereof) for which Midland has a 2-day standard — for the P&DC through which the mail is dispatched and the drive time from that P&DC to

the destination ADC. Subparts (b) and (c), respectively, ask for the clearance time for 2-day mail from Midland and for the travel time from Midland to each of the P&DCs referenced in subpart (a). Subpart (d) asks whether Midland transports 2-day mail directly to a destinating P&DC as opposed to a destinating ADC. Subpart (e) asks for instances (throughout the country) where 2-day or 3-day mail is transported by an originating facility directly to a destinating P&DC, rather than a destinating ADC. Question 122 asks for the drive time to the same list of ADCs from any other P&DC to which Midland dispatches 2- or 3-day mail.

The Service objects to both questions in their entirety. It notes that it already has provided considerable detail in its response to question 89 (which these interrogatories follow up on). It says it is now being asked, in subparts (a) through (d) of this question, "to provide an even greater level of operational minutiae" for mail traveling in and out of Midland, Texas. It contends there is not a single material issue in this proceeding that hinges on the provision of the requested data. Postal Service Objection at 4. The Service characterizes subpart (e) as another example of a burdensome request. *Ibid.* It contends that it should be sufficient to acknowledge a particular operational nuance and to explain why it might occur, and objects to being required to review its entire network to identify *all* instances where 2-day and 3-day mail is transported as described in this question and to provide the reasons for each such instance. *Ibid.*

With respect to question 122, the Service notes that it has provided a list of all drive times used in conjunction with making the service standard changes at issue in this proceeding. *Id.* at 5. It also says that in question 89(i), it was asked to provide drive times from one Outlier (Midland) to a list of ADCs. In response, it explained that drive times from Midland were not part of the model; stated that mail from Midland went through either the Fort Worth or El Paso P&DC; and provided drive times from El Paso to the listed ADCs. The Service says this interrogatory now asks for drive times to those ADCs from any other P&DC through which Midland dispatches 2-day and 3-day mail. *Ibid.* It says that to the extent this question seeks drive times from Fort Worth to the ADCs that already have been provided a part of the list of model drive times, it is

objectionable for being cumulative. To the extent that it requests other drive times, the Service objects on grounds that resolution of the issues in this proceeding will not be affected by knowing the drive time from Fort Worth to Phoenix or Tulsa. *Ibid.* The Service further says the burden involved in developing an answer to question 121(e) is incalculable. Postal Service Opposition at 6.

Mr. Popkin asserts that these questions explore inconsistencies he believes exist at the Outlier facilities and the extent to which they do not meet the conditions of the standards being established for the remainder of the country. Motion to Compel at 2.

Ruling. I agree that this question appears, in at least some respects, to ask for drive time information that already has been provided. The Motion to Compel is moot in this respect. To the extent Mr. Popkin seeks other drive times, lack of relevance is an issue. Resolution of this case will not be advanced by the provision or analysis of these details, and the burden of producing this material would far outweigh any merit in its production. The Motion to Compel is not granted.

Question 123. This is a twenty-part question, which has elicited the Service's reservation of a right to object later to subpart (a), if its meaning is clarified.² The Service objects to subparts (d) through (t) on grounds that it already has explained generally about how the current 2-day and 3-day service standards were developed and the bases for those standards.³ It also notes that it has provided considerable explanation regarding the Outlier facilities, including why their outgoing service standards may not presently be in sync with some of the service standard changes that are in issue in this proceeding. Postal Service Objection at 5; Postal Service Opposition

² DBP/USPS-123(a) requests: Please advise the method to be utilized with Library Reference 4 to obtain the ADCs that are associated with the delivery standards as shown.

³ In question 123 (d) through (t), Mr. Popkin asks about how the mail is dispatched between numerous locations. These include from Kalispell, Montana to the Boise ADC and to the Ely, Nevada SCF; from Amarillo to the Denver ADC; from Worland, Wyoming to the Phoenix ADC and to the Ely, Nevada SCF; from Rapid City, South Dakota to the Denver ADC; from Missoula, Montana to the Boise ADC and to the Ely, Nevada SCF; from Lubbock to the Denver ADC; from Durango to the Phoenix ADC and to Ely, Nevada; from Mobridge, South Dakota to the Denver ADC; from Childress, Texas to the Denver ADC; and from Bismarck, North Dakota to the Saint Louis, Missouri ADC. Popkin also asks for considerable additional explanation, for almost all these dispatches, regarding why two-day delivery cannot be achieved.

at 6. The Service says that to the extent these interrogatories now ask for confirmation that anomalous differences exist or to confirm that the basis for those differences conforms to explanations provided earlier, they are cumulative. Postal Service Objection at 6.

In support of his motion, Mr. Popkin says he is attempting to show the inconsistencies that exist where an Outlier facility appears to receive 2-day service to an area that its parent P&DC has a 3-day standard. He contends that if the mail is being dispatched through the parent P&DC, this is an inconsistency that should be corrected. He asks, for example, why it is that Outlier facility Kalispell, Montana is able to achieve 2-day service to the Boise, Idaho ADC area while its parent P&DC has a 3-day delivery standard to the same ADC. Further, Mr. Popkin asserts that rule 26(c) requires an estimate of cost and work hours when a claim of burden is set forth.

Ruling. The level and extent of detail requested here goes far beyond that which is reasonable or useful in this case. If Mr. Popkin is interested in documenting inconsistencies for the record, the Service already has provided information that can be cited, including USPS-LR-C2001-3/7. To the extent he is interested in why certain inconsistencies exist, the pleadings indicate that the Service has provided this information as well. The Motion to Compel is not granted.

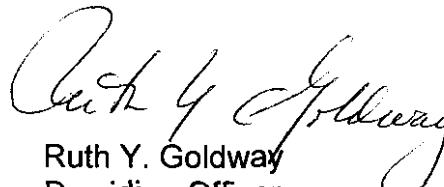
Part III. Motion for Late Acceptance of Objections

In support of a separate motion for late acceptance of its objections to the interrogatories in issue, the Service asserts that although client consultations were conducted prior to the December 10th deadline for objections (over the weekend of December 8th and 9th, 2001), timely filing of objections was prevented by attention to other pleadings in this proceeding also due December 10, other responsibilities in this docket, and developments in Docket No. R2001-1. The Service says it regrets the delay, but considers any resulting prejudice minimal. Motion for Late Acceptance of Objections to Interrogatories DBP/USPS-118-123, December 14, 2001, at 1.

Given the reasons cited by the Service and the apparent lack of any undue prejudice associated with the late filing, the Service's motion is granted.

RULING

1. The David B. Popkin Motion to Compel Response to Interrogatories DBP/USPS-118-123 That Have Been Objected To, filed December 21, 2001, is deemed moot in the limited respects identified in the body of this ruling and, with respect to all other interrogatories (or subparts thereof) is not granted.
2. The Postal Service Motion for Late Acceptance of Objections to Interrogatories DBP/USPS-118-123, filed December 14, 2001, is granted.


Ruth Y. Goldway
Presiding Officer